

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

General Permit No. 199602878
Name of Permittee: General Public
Effective Date: June 10, 1999
Expiration Date: December 31, 2002

**DEPARTMENT OF THE ARMY
GENERAL (REGIONAL) PERMIT**

A general permit to perform work in or affecting navigable waters of the United States and waters of the United States, upon recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 1344) and Section 404 of the Clean Water Act (33 U.S.C. 1344) is hereby issued under the authority of the Secretary of the Army by the

District Engineer
U.S. Army Engineer District, Wilmington
Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

TO AUTHORIZE MAINTENANCE DREDGING WITHIN FEDERALLY AUTHORIZED NAVIGATION CHANNELS AND TO DISCHARGE EXCAVATED AND/OR FILL MATERIAL (BEACH-QUALITY SAND) WITHIN FEDERALLY AUTHORIZED BEACH RENOURISHMENT PROJECT AREAS AND BEACH RETENTION AREAS IN COMPLIANCE WITH GENERAL AND SPECIAL CONDITIONS, IN THE STATE OF NORTH CAROLINA.

1. Special Conditions

a. Written confirmation that the proposed work complies with this general permit must be received from the Wilmington District Engineer prior to the commencement of any work. To enable this determination to be made, the permittee **must** furnish the following information for review and approval to the Wilmington District, Corps of Engineers:

(1) The name, address, and telephone number of the sponsor and/or other individuals responsible for the work.

- (2) A map showing the location(s) of the work.
- (3) Appropriate, written permission of owner(s), leaseholder(s) or others having any rights regarding properties affected by the proposal.
- (4) Plans of the work at an acceptable scale (on 8-1/2 inch by 11-inch paper) showing the location and dimensions of the Federal channel before and after the work, location and size of any borrow area and the location and size of the retention area.
- (5) Quantity (cubic yards) and composition (percentage of fines and/or sand grain size) of excavated and/or fill material.
- (6) A description of the methods, procedures, and equipment to be used to perform the proposed work.
- (7) Approximate commencement and completion dates of the proposed work.

(NOTE: Confirmation that the work is authorized will be provided to the permittee after the Wilmington District's Regulatory and Technical Support Branches have coordinated and agreed with the validity of the proposal. To minimize adverse impacts on fish, wildlife and natural environmental resources, the Wilmington District Engineer, in close coordination with appropriate State and Federal agencies, will insure that all work is conducted in strict accordance with the special and general conditions of this permit and any appropriate recommendations from State/Federal resource agencies. Failure to comply with any condition or specific recommendation will result in an immediate order to cease operations.)

b. No work may occur during times (seasonal restrictions) designated by the North Carolina Division of Coastal Management, the North Carolina Division of Marine Fisheries, the U.S. Fish and Wildlife Service, and/or the National Marine Fisheries Service for protection of fish, shellfish, or wildlife resources. The permittee must not commence work until written confirmation is received from the District Engineer as to when the work may begin and must be completed.

c. No excavation or filling of marshes, submerged aquatic vegetation (SAV), or other wetlands is authorized. Excavation near wetland vegetation must allow for an adequate buffer [not less than ten (10) feet] between the excavated area and the vegetation to avoid erosion of the vegetation.

d. All excavated material that the District Engineer has not determined to be beach-quality sand must be placed and retained entirely on high ground landward of the Corps of Engineers' regulatory jurisdiction and stabilized prior to commencing work to prevent any material from reentering waters or wetlands. Prior to commencing work the permittee must present the District Engineer with a written preliminary determination providing reasonable assurance that the proposed discharge is not a carrier of contaminants. This documentation must be a

comprehensive analysis of all existing and readily available information on the proposed discharge. Work may not proceed until the permittee has received written approval from the District Engineer.

- e. Maintenance excavation must not exceed the original dimensions of the Federal channel.
- f. No excavation is authorized in primary nursery or prime shellfish areas as designated by the North Carolina Division of Marine Fisheries.
- g. All fill material used for dike construction or repair will be obtained from an upland source.
- h. Should the activity involve the removal of material from a Corps of Engineers retention area, the permittee will exercise extreme care not to damage or destroy dikes or spillways. The permittee will be responsible for any necessary repairs.
- i. Should all or part of any proposed work be located within an Area of Environmental Concern (AEC) as designated by the North Carolina Coastal Resources Commission, a CAMA permit will be required from the Division of Coastal Management. Work within any of the 20 coastal counties may require a consistency determination from the North Carolina Division of Coastal Management.
- j. Return water from an upland, contained disposal areas will comply with Water Quality Certification No. 3105, issued by the North Carolina Division of Water Quality (NCDWQ) on February 11, 1997. Water Quality Certification for the discharge of beach quality sand in waters of the United States will be obtained prior to any commencement of such work.
- k. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. General Conditions

- a. All activities authorized by this general permit that involve the discharge of dredged material in waters of the United States will be consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pre-treatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1344) and applicable State and local law. If the proposed activity involves the discharge of dredged material in waters of the United States, before the commencement of any work, the applicant will satisfy the North Carolina Division of Environmental Management (NCDEM) regarding the need for a

Water Quality Certification pursuant to Section 401 of the Clean Water Act.

b. There will be no unreasonable interference with navigation or the right of the public to riparian access by the existence or use of the activities authorized by this general permit.

c. A permittee, upon receipt of written notice from the Wilmington District Engineer of failure to comply with the terms and conditions of this general permit, shall, within 60 days, without expense to the U. S. Government, and in such manner as the Wilmington District Engineer may direct, effect compliance with the terms and conditions or return the work site to pre-work condition.

d. The permittee must make every reasonable effort to minimize any adverse impact on fish, wildlife, and natural environmental resources.

e. The permittee must minimize any degradation of water quality. The activity will be conducted to prevent a significant increase in turbidity outside the area of construction or construction-related discharge. Increases such that the turbidity in the water body is fifty (50) NTU's or less in all rivers not designated as trout waters by the North Carolina Division of Environmental Management (NCDENM), twenty-five (25) NTU's or less in all saltwater classes and in all lakes and reservoirs, and ten (10) NTU's or less in trout waters, are not considered negative.

f. The permittee will allow the Wilmington District Engineer, or a designated representative, to make periodic inspections at any time deemed necessary to assure that the activity is being done in strict accordance with the Special and General Conditions of this general permit.

g. This general permit **does not** convey any rights, either in real estate or material, or any exclusive privileges; and it **does not** authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulation, nor does it obviate the requirement to obtain state or local assent required by law for the activity authorized herein. These may include, but are not necessarily limited to, a Dredge and/or Fill Permit (N.C.G.S. 113-229), a Coastal Area Management Act (CAMA) Permit (N.C.G.S. 113A-118) an Easement to Fill (N.C.G.S. 146-12) and a Water Quality Certification pursuant to Section 401 of the Clean Water Act.

h. Authorization provided by this general permit may be either modified, suspended, or revoked in whole or in part if the Wilmington District Engineer, acting on behalf of the Secretary of the Army, determines that such action would be in the best public interest. Unless subject to modification, suspension, or revocation, the term of this general permit shall be 5 years. Any modification, suspension, or revocation of authorization shall not be the basis for any claim for damages against the U.S. Government.

i. This general permit **does not** authorize the interference with any existing or proposed Federal project and the permittee will not be entitled to compensation for damages or injury to the work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

j. This general permit authorizes activities that the Wilmington District Engineer has determined would not significantly affect the quality of the human environment and, therefore, has decided that an Environmental Impact Statement (EIS) need not be prepared.

k. Emissions from activities authorized by this general permit fall below prescribed *de minimus* levels; and therefore, no Clean Air Act conformity determination is required.

l. This general permit **will not** be applicable to proposed construction when the Wilmington District Engineer determines, after any necessary investigations, that the proposed activity would adversely affect areas which possess historic, cultural, scenic, conservation, or recreational values. Application of this exemption applies to:

(1) Rivers named in Section 3 of the Wild and Scenic Rivers Act (15 U.S.C. 1273), those proposed for inclusion as provided by Sections 4 and 5 of the Act, and wild, scenic, and recreational rivers established by State and local entities.

(2) Historic, cultural, or archeological sites listed in or eligible for inclusion in the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 and its codified regulations and in the National Historic Preservation Amendment Act of 1980.

(3) Sites included in or determined eligible for listing in the National Registry of Natural Landmarks.

(4) Endangered or threatened species or habitat of such species as determined by the Secretaries of Interior or Commerce and conserved in accordance with the Endangered Species Act (16 U.S.C. 1531).

m. Permittees are advised that development activities in or near a regulatory floodway may be subject to the National Flood Insurance Program which prohibits any development, including fill, within a floodway that results in any increase in base flood elevations.

n. At the discretion of the Wilmington District Engineer, a determination may be made any time during the processing cycle that this general permit will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

James W. Delony
Colonel, Corps of Engineers
District Engineer